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II. KEY ISSUE AREAS

4. Equal Protection

The Brownfields problem--the profusion of abandoned and/or contaminated properties in people of color, low income, indigenous peoples, and marginalized communities--cannot be separated from unequal protection in housing, land use, transportation, educational and economic opportunity, and other issues related to urban deterioration.

"To the extent practical and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands."

Executive Order 12898

February 11, 1994

The Brownfields issue focuses attention on yet another important set of equal protection issues, i.e., urban sprawl. Historical land use patterns placed people of color and the poor in undesirable residential areas near industrial activity. These areas suffer a double burden as current transportation policies promote disinvestment and place substantial indirect burdens on such communities and local economies. Many federal investments, particularly in areas of transportation, have helped to widen divisions in society by increasing the physical gaps that separate poor and from socioeconomic opportunities in the increasingly distant periphery, and by economically isolating central business districts.

In certain urban areas, urban sprawl is infringing upon nearby Tribal lands and, as such, is creating direct burdens on environmental, social, economic, and cultural values. In other urban areas, Tribal governments have won land claim settlements that provide for Tribal acquisition of urban lands that have included contaminated and potentially contaminated commercial and industrial areas. It is imperative that local jurisdictions that are located next to Tribal land pay attention to the concerns of the Tribal governments, as well as its Tribal community members. Urban revitalization and Brownfields programs must recognize ceded lands, fee lands, and all lands possessing historical, cultural, and spiritual values.

Equal protection is the constitutional right of all Americans. This demands that equal opportunity be made accessible to all people, regardless of social or economic standing. Environmental justice needs to be distinguished from a narrow view of equal protection that stops at merely making exposure from harmful pollutants more evenly distributed. "What is ultimately at stake in the environmental justice debate is everyone's quality of life. The goal is equal protection, not equal pollution."²¹

SPECIFIC RECOMMENDATIONS:

4-1. Make use of Executive Order 12898 to bring about coordinated implementation by multiple federal agencies of programs related to urban revitalization and Brownfields.

4-2. Intensify efforts for ensuring cultural diversity within the workforce of all federal agencies, viewing this as a key foundational element to the success of initiatives such as urban revitalization/Brownfields.

4-3. Examine use of Title VI of the Civil Rights Act of 1964 with respect to federal support in areas of community reinvestment, fair housing, equal business opportunity, financing, and health protection.

4. ACTION ITEMS

- ☐ 4a. Intensify efforts for ensuring cultural diversity within the EPA workforce, viewing this as a key foundational element to initiatives such as Brownfields.
- ☐ 4b. Develop analytical models of the distributional impacts of federal programs on urban sprawl and incorporate such analyses in the National Environmental Policy Act environmental justice guidance.
- ☐ 4c. Identify all Tribal lands that are impacted by urban sprawl and evaluate barriers against equal protection.

5. Public Health, Environmental Standards, and Liability

Public health and environmental protection are matters of primary concern to communities; they were a recurring theme of testimony presented at the Public Dialogues. Public Dialogue participants pointed out that thousands of abandoned and contaminated sites are located in densely populated urban areas close to where children, teenagers, and homeless people play and congregate. These also are areas for large-scale commercial and illegal dumping of contaminated materials. Any economic redevelopment strategy must be cognizant of pressing public health issues in communities; it must not sacrifice environmental safety for the sake of economic growth or prosperity.

Many Public Dialogue participants expressed uneasiness about the environmental and public health ramifications of present approaches to Brownfields redevelopment. The Subcommittee believes that there are enormous social costs attached to our inability to return appropriate properties to beneficial reuse. In addition to the loss of economic vitality in terms of employment, commerce, and taxes, abandoned properties become a magnet for criminal and drug activity, a source of community demoralization, and a contributor to a downward spiral of community decay.

The Subcommittee has ascertained that while the prospect of quickly returning abandoned properties to beneficial reuse may be highly attractive, communities are extremely apprehensive that attempts to streamline or speed up the cleanup process may be at the expense of environmental protection and public health. These are extremely complex issues where decisions which may determine the fate of communities for generations to come. The Subcommittee believes that any

"One of the first times I heard the notion of Brownfields was from the environmental attorney for one of the nation's largest corporations. She told me that she liked the idea of Brownfields because that meant that they could build factories in communities that were already contaminated rather than going out and threatening the Greenfields, which were pristine. Having sat in hearings for the Defense Department and Energy Department where they talked about relaxing cleanup standards based on prospective reuse of the property, I think there are a lot of people in government who have basically the same attitude. We pollute certain areas of the country; there are certain kinds of people that live there. Let's keep on polluting the same areas. If Brownfields get misused as a concept, it could lead to more of that."

"What we heard today, however, is that people in most communities don't see it that way. They don't figure that just because they were polluted by an oil company, a utility, or a roadway, that somehow their families should be subjected to more. So the message we have heard--and it has to go back to Washington loud and clear--is that you look at a way of first cleaning up the property, and secondly, developing industry, economic activity, or parks."

Lenny Siegel
Pacific Studies Center
Oakland, CA, Public Dialogue

"Revitalizing abandoned or underused industrial or commercial land under a Brownfields Initiative must be based on total community planning to change existing conditions of social inequity, racial discrimination, and urban decay. The poor have found it economically necessary to live in undesirable residential areas. Historically, this included poor immigrants from Europe early in this century, poor whites who lived on "the other side of the tracks" in both urban and rural areas, and the majority of people of color. Prior to automobiles and public transportation, laborers lived within walking distance of factories where they worked."

"Building a new factory in a poorly-planned and zoned urban site will not correct basic urban problems. Sound environmental health planning and zoning is the only solution. Most industrial areas were developed before cities started to address planning and zoning concerns, and were concentrated around harbors, rivers, and rail lines. Economic pressures still override environmental justice for the poor. Where industrial uses (including highway systems, incinerators, and sewage treatment plants) are located in residential neighborhoods, steps should be taken to either relocate through land swaps, the offending industry or the residences."

Dr. Andrew McBride
City of Stamford, CT, Department of Health

"rush to judgement" or the adoption of a "one size fits all" solution to Brownfields assessment, cleanup, and redevelopment, would be imprudent. More important, the Subcommittee has ascertained that there is as yet an insufficient level of discussion about these complex issues in directly impacted communities. Ultimately, these communities must be part of the process of shaping these policies and practical solutions. Thus, the Subcommittee is not prepared to endorse particular solutions until directly impacted communities have had a chance to provide visible and meaningful input to this discussion.

The Subcommittee's viewpoints on Public Health, Environmental Standards, and Liability issues can be summarized in the following way:

Public Health: In most urban/Brownfields areas, there exists a set of characteristics which contribute to overall poor health. For this reason, a new set of priorities is needed. For good reasons, methodologies and technologies for characterizing environmental hazards heretofore have been built around the "worst first model." High priority has been given by responsible parties, regulators, and communities to identify and define the contamination that posed the greatest threat to public health or the environment, given existing exposures and potential pathways.

For Brownfields, that priority is turned on its head. To maximize the reuse of large areas where there exists a multiplicity of smaller sources of contamination with greatly variable degrees of severity, the cleanup process needs to determine early on which areas are safe. Only then is it healthy and economically viable to transfer or reuse a particular property or proceed towards an overall revitalization strategy for the area. In order to ensure public health and a sound environment as part of both short term and long term integrated redevelopment plans, the goal must be to ascertain not only what sites are unsafe but what areas are safe.

The primary and most cost-effective public health strategy is prevention. In the less than perfect world of congested, post-industrial urban/Brownfields communities, the Subcommittee believes that there

Brownfields Initiatives and Community Planning

Brownfields initiatives and community planning should include:

- ▶ Sound and equitable planning and zoning with environmental justice review
- ▶ Community involvement with participation by poor and people of color
- ▶ Air pollution, water pollution, noise pollution
- ▶ Soil contamination (lead, petroleum, heavy metals, asbestos, etc.)
- ▶ Visual pollution (billboards, poorly maintained properties, poor architecture)
- ▶ Refuse sanitation (removal of litter, refuse, adequate storage receptacles)
- ▶ Municipal sanitary sewers, public water supply
- ▶ Public transportation, adequate streets, parking, traffic flow
- ▶ Pedestrian and handicap access
- ▶ Services (stores, schools, medical, etc)
- ▶ Quality of life facilities (parks, libraries, community centers, churches, playgrounds, programs for youths, adults and seniors)
- ▶ Landscaping (trees, mini-parks, shrubbery, flowers)
- ▶ Personal safety (police, fire, ambulance)
- ▶ Magnet facilities (parks, shopping, college, restaurants, museum, theater)
- ▶ Optimizing natural resources (waterfront, views)
- ▶ Employment for adults, youth
- ▶ Owner-occupied modest, moderate, and high-income housing

Dr. Andrew McBride
City of Stamford, CT, Department of Health

must be a baseline understanding of public health and environment which includes consideration of (1) characteristics of urban/Brownfields communities, (2) sources of environmental risk, (3) aggregate toxic load, and (4) the capacity of public health community to intervene effectively. The community must be engaged in developing this baseline understanding as well as making choices over redevelopment strategies. Based upon such a baseline understanding, choices can be made about revitalization and redevelopment which (1) separate people from toxics, (2) ensure environmental quality and ecological integrity, (3) create a repository of information for regulators, health practitioners, and the community, and (4) allow such choices to be based upon a rational, commonly understood, and mutually agreed upon frame of reference.

Environmental Standards: Overall community goals regarding environmental quality and land use must guide the process for developing environmental cleanup standards. This principle is crucial for the following reason. When development-oriented corporations or local governments attempt to limit cleanup time and expense by adopting weaker goals, they often end up allowing present contamination to determine the land use. Thus, they limit the community's future land use because they are unable or unwilling to carry out the cleanup.

To ensure that standards remain protective of public health, the guidelines listed below should apply to the adaptation of soil cleanup standards based upon anticipated land use. No matter which specific law is used to make these determinations, a fundamental principle applies: the decision should be made by, or in consultation with, those most directly affected or likely to be affected by the contamination.

- The migration of hazards and the impact of contamination on adjacent areas should be considered.
- The potential for mixed uses, such as childcare centers in industrial or commercial areas, should be evaluated.
- The standard could take into account the potential changes of use that might take place over the life of the hazard. Relying upon current uses or even existing plans could lock in uses that the community will want to change later.
- The cost and delay of determining and evaluating the impact of future use may make the strongest standard--such as cleanup to meet a residential scenario--the most timely and cost effective.
- Land and water not cleaned up to the strongest standard should be subject to institutional controls and/or monitoring for the life of the hazards. The cost of these controls should be considered in evaluating the savings achieved by implementing the proposed weaker standard. The community must be involved in the decision-making process and in providing oversight and monitoring.

Even if these guidelines are followed, communities and officials should proceed cautiously. An area that has been blighted by contamination could be subjected to repeated pollution if the future use plan for that area assumes that contamination--both old and new--won't result in human illness.

The Subcommittee notes that discussions are taking place to develop a more rationale approach towards categorizing levels of severity and/or future land use in order to cut down on confusion and unnecessary bureaucracy. While the Subcommittee urges further discussions of this nature, it believes that they must be guided by the goal of achieving public health and be fully informed by the issues we have presented.

Environmental Liability: Business representatives with an interest in urban revitalization have warned that potential environmental liability is a major deterrent in Brownfields reinvestment. EPA is developing a suite of tools for overcoming liability obstacles. The Subcommittee summarizes two major points on this question:

- Community representatives generally have taken no position on these tools for addressing liability obstacles. However, they express much skepticism. They want to be sure that a responsible party is held accountable in tangible and meaningful ways. In addition, the existence of a deterrent to irresponsible and inappropriate practices is viewed as a necessity. The liability issue cannot be considered in isolation. Public Dialogue witnesses gave examples of illegal dumping and other improper and/or illegal activities in their neighborhoods. Hence, the liability issue must be considered in relationship to the existence or lack of tangible and meaningful enforcement and compliance activity, as well as mechanisms to ensure that health and related needs are met.
- The participants at the Public Dialogues point out that environmental liability is not the only impediment to reinvestment in urban/Brownfields communities. In fact, environmental liability may not rank as the most serious impediment for communities experiencing a long history of disinvestment. These other impediments include redlining and other discriminatory practices of lending and insurance institutions. They also include decisions to relocate industrial facilities to other parts of the country and the world.

Community involvement must be an overarching principle guiding Brownfields Initiatives. The community is uniquely qualified to make choices over environmental health and clean up. Community residents have direct knowledge of the environmental problems in their communities. They should be directly involved in the oversight of cleanup **and** related environmental activity and in the development of future use plans.

However, liability can be used constructively to derive positive incentives for Brownfields revitalization, rather than acting as a barrier to cleanup. But, release from liability must be used carefully to achieve these ends. The Subcommittee believes that liability should only be released once a protective cleanup has been complete, and then only with routine provisions for reopening should additional contamination be discovered or the remedy fails. In addition, there should be a clear legal understanding of responsibilities among former and prospective owners as to who has liability responsibility should the land use standards be changed sometime in the future. Other parties involved in the transaction including lenders, investors, and insurers should have clear release from liability unless they are otherwise directly responsible for the contamination, or practices causing contamination.

It is the Subcommittee's understanding that currently only designated agencies of the Federal government may release responsible parties from CERCLA liability, yet the parties most likely to be involved at potential Brownfields sites will rarely receive federal attention in the cleanup of their sites because those sites are below the levels of contamination which have prompted federal interest (such as sites proposed or listed on the NPL). To ensure that release from liability only follows successful and adequate cleanups, consideration should be given to delegating such liability release to the State agency directly overseeing the site cleanup.

The Subcommittee feels strongly that cleanup standards for Brownfields must stand on their own merits, and be based on protection needs, future land use, and the level and type of contamination present. Cleanup standards are not dependent on liability, but liability should only be released once the necessary cleanup standards are successfully achieved.

Finally, it is important to recall the advice of the community members during the Public Dialogues: liability is but one of the many inhibitions to urban revitalization--we should not put undue emphasis on the release of liability. We also need to encourage redevelopment through other incentives that will enhance property values, such as improved transportation and housing; better public services, daycare, schools; and improved public safety. All of these public choices require the active and direct participation of the community in the continuing public dialogue process which is central to this report.

SPECIFIC RECOMMENDATIONS:

5-1. *Involve the impacted community in clarifying the environmental risk issues associated with urban revitalization and Brownfields, in developing a framework for understanding and addressing the public health baseline in urban areas as part of any revitalization strategy; support right-to-know, enforcement and compliance activity in impacted communities.*

Presently, there exists a huge gap in understanding the actual environmental health challenges posed by Brownfields-type communities. For example, communities oversaturated with environmental hazards pose environmental risks to residents which is multiple, cumulative and synergistic in nature. This calls into question environmental protection models which presently proceed from a substance-specific, site-specific, and media-specific framework. In addition, EPA must provide opportunities for communities to be involved in inspections, negotiations, and public review.

5-2. *Support community desires to foster ecological restoration and incorporate sustainable development through "green" businesses, pollution prevention, and other environmentally sound economic development.*

5-3. *Support the development of, and participate in, a leadership training institute or program for minorities and the poor.*

This institute would not be a course in ecology or environmental epidemiology, but would be a course in leadership skills development for participating in important organizations, such as local planning and zoning boards, environmental community action groups, and environmental health agencies.

5-4. *Conduct training of staff personnel about public health and use as a starting point, the World Health Organization definitions of health as "a state of complete physical, mental, and social well-being, not merely the absence of disease or infirmity," and of a healthy community as one which "includes a clean, safe, high-quality environment and a sustainable ecosystem; the provision of basic needs; an optimum level of appropriate high quality, accessible health and sick-care services; and a diverse, vital economy."*

5. ACTION ITEMS

- ☐ 5a. Establish mechanisms which ensure a primary role for impacted communities in the decision-making process regarding public health and environmental protection issues.
- ☐ 5b. Support several Brownfields initiatives where the key component is assessment of health and ecological risks on a community-wide basis.
- ☐ 5c. Support and develop strategies to address liability and insurance barriers to Brownfields redevelopment. If this requires statutory change, that change should be sought.
- ☐ 5d. Focus attention and resources on special issues such as lack of institutional infrastructure along the US-Mexico border and on Native American reservations.
- ☐ 5e. Support efforts to identify and clarify all issues related to reinvestment in urban/Brownfields areas, particularly the relationship between redlining, community reinvestment, and environmental liability reform.
- ☐ 5f. Take concrete measures to address health and safety in workplaces associated with Brownfields projects.
- ☐ 5g. Enlist appropriate federal agencies in developing a plan to ensure that public health be integrated into all urban revitalization/Brownfields initiatives as an overarching principle.
- ☐ 5h. Conduct a series of dialogues on integration of public health and planning for purposes of achieving true urban revitalization with healthy and sustainable Brownfields redevelopment.
- ☐ 5i. Enlist community-based organizations and national health groups such as the National Association of City and County Health Officials, American Public Health Association, American Lung Association, National Medical Association, Healthy Cities, Association of State and Territorial Health Officials, and others in ensuring that strong public health approaches towards urban revitalization/Brownfields.

6. Job Creation, Training, and Career Development

Brownfields redevelopment must be coordinated with broader strategies of job creation, training, and career development which produce demonstrable benefits for the host community. The startup and nurturing of locally-based businesses as a function of true economic development is a critical requirement.

Many participants stated that in order for urban areas to survive, new ways of creating and sustaining employment must be devised. They noted that if poor education, lack of training, and other issues which have led to the deindustrialization of urban areas continue to prevail, any effort at urban revitalization will not result in significant benefits to urban communities. These witnesses strongly urged coordination between workforce development and training programs with sustainable job opportunities. To integrate job training and employment development, urban revitalization/Brownfields initiatives should involve integrated project planning, in which the workforce needs of the various projects in an area are known soon enough to recruit and train needed workers from the local population.

"We started in our community a Water Conservation Program with six employees. Now we have 28 employees, all [working at] \$8.00 an hour and with medical insurance... We give the low-flush toilet to the community. We receive \$25 for each toilet. That's the way we make [our] money. We now have this project for four years. When it started, we planned to have the program for only six months; then it continued for another six months, and another six months... We have help from the Water Department. We don't need to go through other people [to] train the kids. We have people in the organization to train these people. I think all communities can do something like this. Start low and then go up."

Juana Gutierrez
Mothers of East Los Angeles
Oakland, CA, Public Dialogue

Two issues were particularly prominent: (1) efforts must be made to ensure workplace health and safety for those jobs developed within the community, particularly those associated with environmental cleanup activities; and (2) jobs must produce livable wages which fit into a career development ladder that is based upon realistic assessment of present and emerging job markets.

The importance to the community of building community-based businesses and providing entrepreneurial startup help and ongoing business training to individuals and companies, with emphasis on people of color and female-owned companies within the community, was a very significant concern at the Public Dialogues.

The need to coordinate resources available for job training and business development from among the many Federal agencies with interests and funding sources was cited as a serious concern. At the present time there appears to be no "one-stop shopping" for worker training assistance, nor business development assistance. This is particularly true of the programs available from DOL, HUD, DOT, DOE, and DoD. There are many cross currents at work with the eligibility requirements that make much of the training assistance illusory to the very people within the community who need it most. The definitional problems of fitting into present "displaced" worker and similar job training programs need to be dealt with if this type of assistance is to be made meaningful to the Brownfields impacted communities.

Coordination and cooperation among government (federal, state, tribal, and local), business/industry, community-based organizations labor unions, faith groups, and the community-at-large is mandatory in order to leverage resources, avoid duplication and develop mechanisms which link workforce development and cleanup to economic redevelopment. Concentration by these parties must be on a **win/win** basis. Everyone benefits if they are unified and taking actions towards a common goal, i.e., a vibrant, safe, healthy, and sustainable community.

SPECIFIC RECOMMENDATIONS:

6-1. *Make use of the momentum generated by the Brownfields issue and provide leadership in building partnerships and coalitions which result in locally-based job creation, entrepreneurial development, and sustainable careers.*

This effort must involve all federal agencies, state, local, and tribal governments, local community development organizations, churches, labor unions, philanthropies, universities, and the business community. Specific efforts here could include encouraging new industry to hire locally and encouraging the inclusion of business and industry that is capable of long-term success and growth.

6-2. *Support efforts to ensure worker health and safety.*

Any increase in economic redevelopment activity must have a commensurate increase in support to protect worker health and safety for efforts to ensure worker health and safety, which means including support for pre-training, training and apprenticeship programs focusing on workplace safety and health. Many of these programs are now supported at local community colleges and union/management training and apprentice programs.

6-3. *Partner with other federal agencies to link clean up of federal facilities and base-conversion activities with the needs of urban revitalization and Brownfields.*

In many places, DOD and DOE facility cleanup and conversion constitute a major, if not the major, source of economic redevelopment funding potential.

6-4. *Encourage EPA and other Federal, State, local, and tribal governments to maximize the use of recycled and reused materials; local businesses should be encouraged to set similar procurement policies.*

6. ACTION ITEMS

- ☐ 6a. Partner with other federal agencies to link rehabilitation of low- and middle-income housing stocks to EPA's Brownfields and urban revitalization projects. For example, EPA should link with HUD to address issues related to asbestos and lead abatement.
- ☐ 6b. Continue to work with:
 - DOL to link local private industry councils with Brownfields initiatives.
 - The National Institute of Environmental Health Sciences to ensure that NIEHS Minority Worker Training pilot grants--established to facilitate the development of urban minority youth worker training programs--overlap with Brownfields pilot cities.
 - Other federal agencies (such as DOL and HUD) to develop a registered apprenticeship program called Superfund Step-Up to focus on employment opportunities for low-income and minority youth affected by contaminated waste sites.
- ☐ 6c. Inform the community of available job- and training-related initiatives (such as Step-Up and YouthBuild) available within EPA.
- ☐ 6d. Support efforts to provide information about technical assistance, pilot job training, and career development programs; consider a wide variety of school-to-work and youth apprenticeship programs that may be applicable to community development models involved in the Brownfields programs. Examples of such programs are the technical and information workshops for communities such as the NIEHS Technical Workshop on Environmental Job Training for Inner City Youth at Cuyahoga Community College in Cleveland, Ohio in 1995. Continued support by EPA of NIEHS's Minority Worker Training Program now under pilot operation in a number of Brownfields cities is very important.
- ☐ 6e. Continue to support, and then expand on, significant employment and training models, particularly those that provide youth training and pre-apprenticeship opportunities such as urban forestry and agriculture projects.
- ☐ 6f. Target labor unions and faith groups as key partners in job training because of their direct ties to the communities and their significant training infrastructures.
- ☐ 6g. Initiate a series of job summit to define local trends and job opportunities within Brownfields communities.
- ☐ 6h. Provide support for developing ventures in pollution prevention, materials reuse and recycling, environmental cleanup, and related areas.
- ☐ 6i. Increase research on job market opportunities related to urban revitalization and environmental cleanup.

7. Land Use

Past land use decisions, many of which are socially inequitable and racially discriminatory, are a major contributor to the inequitable distribution of the burdens and benefits of modern industrial society.

Public Dialogue participants cited numerous accounts of the placement of polluting industries that produce toxic chemicals in area where people live, work, play, and go to school.

Participants insisted that Brownfields initiatives must examine the relationship between past, current, and future land use. In particular, they were clear that decisions about future land use must be rooted in community-led processes. They contrasted the community-driven approach with corporate liability-driven proposals which, under the guise of a future industrial land use designation, clean up sites to levels inadequate to protect public health. Such decisions, without the participation or leadership of community residents who have already suffered from the prior pollution of their neighborhood, merely turns these communities into sacrifice areas. The recommendations on enhanced community participation cited in earlier sections of this report must also be applied to land use policies and decision-making.

Most citizens working on urban revitalization issues from a community-based perspective take it as a given that decisions about land use, and increased community participation in land use decisions, are an integral part of urban revitalization and appropriate Brownfields redevelopment. Few would deny that zoning practices and lending practices, such as redlining, have a strong historical role in racial discrimination and have led to lower land values in many economically distressed areas. It is only logical that reversing these past abuses must be a critical part of revitalizing these areas. Further, any multi-stakeholder attempts to improve the conditions of distressed and under-utilized areas (particularly involving state and federal policies) must not be countered by future local land use policies that are not coordinated with the overarching urban revitalization strategy. As noted earlier, Brownfields redevelopment must be linked to help address the broader set of community goals and needs, including residential retention and other efforts to ensure the long-term survivability of current communities.

Participants also expressed concerned that Brownfields proposals may become a means for justifying levels of clean-up based upon planned future land use that are not fully protective of public health. They were clear that the voices of residents in a polluted area should be the primary determinant of

"One baseline issue is community control over land use. The whole process of land use, and control over zoning and development, is really at the core of how many of our communities got to the place that they are in now. Perhaps it is a way by which they can work their way out of the situation... Many of our communities--it's across the board in most low income communities of color--are often zoned for mixed-use. So we have industrial, commercial and residential development in the places where we live.

AWe have a situation in New York where two incredibly different communities exist in one local zoning area, i.e., West Harlem, where I live, and Morningside Heights, where Columbia University is located. West Harlem is zoned mixed-use. We have sewage treatment plants, bus depots, chemical waste storage centers, transportation routes (including one for hazardous wastes). All of that criss-crosses each other every day right through our community, and we're surrounded by highways on three sides. But in the Morningside Heights community, which is the southern neighbor of our community, you cannot so much as zone a newsstand without going through incredible land use regulations to get any kind of land use that is not residentially zoned.

"I sit on the local zoning board. It's become clear to me that if we don't get involved in that process, we are never going to understand it or perhaps, change it in a way that really respects the interests of local communities. We have gotten a lot better at being able to identify how issues of environmental justice, urban revitalization, economic redevelopment, and land use are intimately connected. You really can't think about one without the other."

Vernice Miller
Northeast Environmental Justice Network
Boston, MA, Public Dialogue

acceptable levels of clean-up. Those who claim that the community will always require the maximum level of clean-up, ignore the fact that, far better than anyone else, the community recognizes the dangers of losing any cleanup by demanding a full cleanup. Urban revitalization may demand compromises, but these compromises must be supported by those who bear the burdens of incomplete cleanup. Those who bear the burdens of incomplete clean-up must also receive direct benefits from revitalization as opposed to only the indirect benefits of an improved tax base and jobs often filled by non-residents who leave only their car exhaust when commuting to the newly created jobs.

Ultimately, elected officials, policy makers, and the governmental bureaucracy must recognize there is a difference from the sometimes necessary option of limiting future land use because cleanup is not feasible and the undesirable option of allowing the polluter to limit the level of cleanup to reduce the cost of cleanup.

Participants repeatedly described the inadequacy of zoning and facility siting procedures to provide comprehensive, timely, and understandable information about the impacts of new and existing facilities on communities. Without such information, the community can have no meaningful voice in land use decisions directly affecting their lives. Far too often, potentially polluting development is permitted without regard to cumulative impacts on the community.

Land use planning has, and will be, a function of local government, but Federal and State governments have an important role to play in facilitating equitable, environmentally sound land use planning. Dialogue participants were impressed with the capacity of LandView II to combine the expertise of Federal, State, and local governments and community member resources to track the accumulation of pollutants. Easy access to this information empowers the community to better impact the location of polluting sources and to seek mechanisms for pollution reduction within the community.

Several participants stressed the need to replace highly polluting sources with better operations and technology. Others proposed strategic placement of polluting sources together where their regulatory compliance could be monitored and their impacts separated from residential and sensitive populations. Most participants encouraged development of "green businesses" in urban areas, and some also noted the need for more deliberative planning for the "non-green" businesses that comprise much of current manufacturing and development. Non-green businesses should operate in a more environmentally protective manner and in areas with well-planned transportation and limited exposure to residents. Finally, Dialogue participants noted the wisdom of acting now to provide small but incrementally beneficial enhancements to land use- urban farms, nature trails, green spaces, and other conservation projects.

Participants called for an approach to land use based upon principles of **equity**. They called for a holistic examination of equity issues which looks at social justice and economic distribution issues throughout the entire metropolitan area surrounding Brownfields.

A regional approach is essential to understanding these issues. Brownfields sites will always be in competition with Greenfields areas for development. Regardless of improvements of the environmental liability conditions of an urban site, issues such as public safety, decaying infrastructure, and lack of social amenities must be addressed as well. The health of center city areas is crucial to the future health of suburban areas. Government can play a positive role by providing opportunities for discussion of the common interests of urban, suburban, and exurban areas. Land use planning and zoning decisions should be rationalized with a regional perspective. While local political subdivisions may feel they are in competition for economic development and may differ over decisions on encouraging development in under-utilized urban areas or controlling growth in Greenfields areas, this lack of agreement should not be allowed to undercut discussion and reasoned debate. There is a need for at least discussion and understanding of the issues involved even if agreement or shared planning is difficult to achieve.

Disinvestment can be driven by subsidies provided for industrial development in Greenfields areas. Our society and government policies have a bias toward Greenfields development. These subsidies can

take the form of government built infrastructure such as roads, water and sewerage. It can come in the form of direct subsidies through tax abatements.

Finding common interests between urban, suburban, and exurban residents will be a key to addressing these issues. Rural interest in retaining their small town character, suburban interest in holding back the congestion that drove them away from the urban center, and the inner city's desire for redevelopment can form the basis of a common interest. Though the issues of urban economic plight, suburban congestion, and the loss of farm and wilderness lands are different problems, they each share a common solution as an alternative to Greenfields development. Forums which explore the common concerns and common solutions to these problems will build a broader constituency for Brownfields initiatives.

SPECIFIC RECOMMENDATIONS:

7-1. *Examine land use patterns of an entire metropolitan area or region surrounding Brownfields sites.*

Brownfields do not exist in a vacuum. Activities formerly in these areas often have not simply ceased to exist, but moved to other areas. New development must choose between locating in Brownfields communities and Greenfields areas. If the perception exists that Greenfields are the place to invest due to various amenities there and the disamenities in urban areas, it will be difficult to attract development regardless of what is done to enhance a Brownfields area. If government is in fact subsidizing Greenfields development, it may become impossible to attract outside capital.

7-2. *Identify natural advantages of Brownfields areas.*

Industry originally was built in urban centers and Brownfields areas because of natural advantages such as access to water, transportation, or natural features. Additional infrastructure such as sewerage, universities, and transportation links were built around these industrial centers and often remain. In addition, these areas often are less susceptible to natural disasters. These natural advantages must be identified, chronicled and disseminated to improve perceptions of these areas.

If the real costs of new roads, new sewage systems, increased automobile traffic, and other financial burdens of Greenfields development were incorporated into developer costs or not subsidized by the government, Brownfields areas would be more competitive. The playing field between Brownfields sites and Greenfields sites actually may be level when natural advantages of the urban core are taken into account. The playing field may actually be fair if Greenfields development is not subsidized.

7-3. *Encourage and support the involvement of non-traditional stakeholders (such as community-based organizations) in government processes, such as zoning issues.*

Government officials should be accountable for not only providing "opportunities" for public input but, in making a good faith effort to succeed in securing public input, it is not enough to simply hold a meeting or provide opportunities for access. Government officials must make an effort to achieve meaningful public participation through long-term consistent interaction with community-based organizations and institutions. Educating the public about basic decision-making processes that determine development and zoning patterns will result in stronger democratic processes, greater public participation, and better decision making for the public as a whole.

7-4. *Encourage investment in degraded urban environments by supporting and integrating activities to improve public safety access to health care, schools, and other social factors that may limit investment even after cleanup.*

This can take the form of linking federal grants from other agencies to Brownfields grants in communities. Community-based groups working on broader social justice problems can be educated and supported on environmental problems and solutions through urban redevelopment. Federal

programs such as AmeriCorps, already focus on environment and public safety as separate areas. How can they be joined? Programs such as the Empowerment and Enterprise zones can bring far more resources to bear on the same communities and problems than can the Brownfields initiatives on their own.

7-5. Explore the linkages between U.S. government international trade policies, disinvestment in urban areas, and reinvestment in Greenfields sites.

U.S. trade policies and commitment to free trade have reduced barriers to existing U.S. companies moving to other countries in search of cheap labor. In theory, the dropping of these barriers and the creation of new markets for U.S. products purchased by newly hired workers will result in a new gain in jobs and economic activity in our country. It is likely the plants that close are disproportionately older plants located in Brownfields areas while the new U.S. plants built to serve new markets are located in Greenfields areas. Although U.S. trade policy is designed to bring about a net benefit for the country as a whole, it will be necessary to assess where these benefits and losses occur and steps be taken to level the playing field.

7-6. Urge cities, states, tribal and territorial governments to review their planning and land use review and permitting processes to address environmental justice issues, such as environmental health, cumulative risk, and incompatible mixed land uses; offer assistance to local governments for incorporating public participation and accountability in formulating policies and plans and in local decision-making.

7. ACTION ITEMS

- ☐ 7a. Convene dialogues on land use planning between political subdivisions in the regions in which Brownfields sites are located.
- ☐ 7b. Identify the real costs of Greenfields development.
- ☐ 7c. Support and encourage interaction of stakeholders from communities in urban, suburban, and exurban areas.
- ☐ 7d. Link Brownfields with transportation infrastructure development, particularly those related to mass transit (see experiences of this critical link in communities such as Bayview Hunters Point in San Francisco, California; the Green Line in Chicago, Illinois; and Fruitvale, California).
- ☐ 7e. Maximize the use of LandView II and other mapping tools to integrate landuse planning and environmental protection.
- ☐ 7f. Dedicate resources to expanding and updating the databases used by LandView II and other mapping tools, including:
 - All environmental permits under federal, state or local authorities
 - Criteria for identifying potential sources of pollution exempt from regulatory obligations
 - Hazardous waste contamination and toxic releases
- ☐ 7g. Assist communities in the compilation of their own data, including, providing advice on tracking, preparing guidelines for organizing data, identifying common sources of lead and asbestos, providing a means of discovering and deterring illegal dumping, among others.